IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1464 OF 2007
IN
APPEAL NO. 289 of 2007
IN
NOTICE OF MOTION NO.2059 OF 2005
IN
SUIT NO. 1968 OF 2005

Parmanand T. Manwani & Anr. .. Applicants

versus

Madan Devkishandas Bhatia & ors. .. Respondents

...

Mr.Rohit Kapadia, Sr. Counsel i/b L.J. law for the applicants.

Mr.M.P. Vashi for respondent no.1.

Mr.S.C. Naidu i/b C.R. Naidu & Co. for respondent no.3.

Mr.G.W. Mattos, AGP for respondent no.2.

CORAM : R.M.S.KHANDEPARKAR
& D.G.KARNIK, JJ

DATED : 26th April 2007.

P.C.:

1. Heard.

2. Considering the facts disclosed in the affidavit in support of notice of motion and taking into consideration that the impugned order in Appeal No.289 of 2007 has been passed only on the ground that no prior permission was obtained for assigning of lease in favour of the plaintiffs or the proposed society of which the plaintiffs are the promoters and as the said finding prima facie does not appear to be born out from the record in as much as that the letter dated 15th March 2005 issued by the MHADA and addressed to the defendant respondent no.1 discloses consent of MHADA for the proposed society and assignment of lease of land in favour of the proposed society, and further that the learned Advocate appearing for the defendant respondent no.1 has stated that till the disposal of the appeal, the defendant will not create any third party rights in the property nor will alienate the said property in question, Notice of Motion is made absolute by directing the parties to maintain status quo. However, this order shall not preclude MHADA from

recovering any dues in relation to the plot in question from the concerned party nor will preclude MHADA from taking whatever legal action as permissible under law in that regard.

3. In view of the fact that the possession of the property in question has already been delivered to the defendant respondent no.3 and the learned advocate appearing for the respondent no.3 has made a categorical statement that no third party rights will be created nor the property will alienate or assign in favour of the third party, we do not find any case has been made out for appointment of receiver as such for the property, suffice to direct the parties to maintain status quo in relation to the suit property till the disposal of Appeal no.289 of 2007. It is claimed by the respondent no.3 that the possession of the property is already delivered to the respondent no.3 which is disputed by the appellant. Nevertheless in view of the statement made on behalf of the respondent no.3, we do not find any need for appointment of receiver. The request for appointment of receiver, therefore, is rejected.

(R.M.S.KHANDEPARKAR, J)

(D.G. KARNIK, J)